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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

15 Cr. 730 (WHP)

5 HONG PING HE and BENSON CHIN,

6 Defendants.

7 -----x  
8 New York, N.Y.  
9 June 30, 2016  
2:55 p.m.

10 Before:

11 HON. WILLIAM H. PAULEY III,

12 District Judge

13  
14 APPEARANCES

15 PREET BHARARA  
16 United States Attorney for the  
Southern District of New York  
17 JESSICA FENDER  
Assistant United States Attorney

18 DONALD YANNELLA, P.C.  
Attorneys for Defendant Chin  
19 BY: DONALD YANNELLA

20 FEDERAL DEFENDERS OF NEW YORK, INC.  
Attorneys for Defendant He  
21 BY: MARTIN S. COHEN

22 ALSO PRESENT: PATSY ONG, Mandarin interpreter  
23 LILY LAU, Cantonese interpreter  
24  
25

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1 (Case called)

2 THE DEPUTY CLERK: Appearances for the government.

3 MS. FENDER: Good afternoon, your Honor. Jessica  
4 Fender on behalf of the government, and with me at counsel's  
5 table is one of our interns, Richard Frolichstein.

6 THE COURT: Good afternoon, Ms. Fender.

7 MR. COHEN: Good afternoon, your Honor. Martin Cohen  
8 from the Federal Defenders on behalf of Ms. He.

9 THE COURT: Good afternoon to you, Mr. Cohen.

10 MR. YANNELLA: And good afternoon. Donald Yannella on  
11 behalf of Benson Chin.

12 THE COURT: Good afternoon, Mr. Yannella.

13 I note the presence of both Cantonese and Mandarin  
14 interpreters. Would each of you identify yourselves?

15 INTERPRETER LAU: Yes. Lily Lau, Cantonese  
16 interpreter.

17 THE COURT: Good afternoon, Ms. Lau.

18 INTERPRETER LAU: Good afternoon, Judge.

19 INTERPRETER ONG: Patsy Ong, Mandarin interpreter.

20 THE COURT: Good afternoon to you, Ms. Ong.

21 INTERPRETER ONG: Good afternoon.

22 THE COURT: Ms. He, are you able to understand what is  
23 being said here today through the Mandarin interpreter? The  
24 interpreter cannot take a shake of the head.

25 DEFENDANT HE: I understand.

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1 THE COURT: And Mr. Chin, can you understand what is  
2 being said here today through the Cantonese interpreter?

3 DEFENDANT CHIN: I understand.

4 THE COURT: All right. This matter is on for  
5 sentencing. Are the parties ready to proceed?

6 MS. FENDER: The government is, your Honor.

7 MR. COHEN: Yes, your Honor, Ms. He is prepared.

8 MR. YANNELLA: Yes, your Honor.

9 THE COURT: All right. Mr. Cohen, have you reviewed  
10 with your client the presentence investigation report?

11 MR. COHEN: Yes, your Honor. I reviewed the report  
12 with the aid of an interpreter with Ms. He. We have no  
13 objections to the facts set forth in the report other than as  
14 indicated in our sentencing submission.

15 THE COURT: Does the government believe there are any  
16 factual matters in the report that warrant modification or  
17 correction?

18 MS. FENDER: No, your Honor. As Mr. Cohen  
19 represented, the only debate we are having here is about the  
20 allegations being made by Victim 1.

21 THE COURT: Is it necessary for us to address those  
22 allegations in terms of the presentence report?

23 MS. FENDER: I don't believe so, your Honor, because  
24 no enhancement is being sought here and it does not affect the  
25 guidelines calculation, only to the extent it affects your

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1 Honor's consideration in issuing a sentence.

2 THE COURT: Mr. Cohen, do you have any view?

3 MR. COHEN: I agree, your Honor.

4 Our request is as we set forth in the report that the  
5 Court direct probation to include Ms. He's denial of the  
6 assertions but, other than that, no other changes.

7 THE COURT: All right. Thank you.

8 MR. COHEN: Thank you, your Honor.

9 THE COURT: I will include such a direction.

10 MR. COHEN: Thank you very much, your Honor.

11 THE COURT: So, the report will be amended to reflect  
12 that, that the defendant denies the allegations.

13 MR. COHEN: Thank you very much, your Honor.

14 THE COURT: Mr. Yannella, have you reviewed with your  
15 client the presentence investigation report.

16 MR. YANNELLA: Yes, I have.

17 THE COURT: Are there any factual matters set forth in  
18 the report that you believe warrant modification or correction?

19 MR. YANNELLA: I sent in my objections and probation  
20 noted them.

21 THE COURT: They did.

22 MR. YANNELLA: Yes, so I am satisfied with the fact  
23 that they have noted my objections. That is our assertion of  
24 what occurred. I'm not seeking a Fatigo hearing and I am  
25 satisfied with the report.

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1 THE COURT: I have one issue with respect to the  
2 report and that is at paragraph 112.

3 Mr. Chin has been married a number of times and the  
4 report reports that the first marriage was to Mei Rong Weng in  
5 1999; they divorced in 2003. The second marriage was to Lee  
6 Lee Yung in 2001 in Manhattan; they divorced in 2008. The  
7 third marriage was to Caliman Yu in 2009; they divorced in  
8 2012.

9 My question, specifically, is did the defendant marry  
10 Ms. Yung while he was still married to Ms. Weng?

11 (Defendant and counsel conferring)

12 MR. YANNELLA: Judge, my client's answer is no, that  
13 he has never been married to two women at once. There has  
14 never been any overlap, but he also points out to me that the  
15 order of wives numbers 2 and 3 is switched in the presentence  
16 report but there was no overlap at any time.

17 THE COURT: When did he marry Ms. Yung?

18 (Defendant and counsel conferring)

19 MR. YANNELLA: Judge, he doesn't remember the exact  
20 years but, again, he is telling me that 2 and 3 are switched in  
21 the PSR in paragraph 112.

22 THE COURT: The names are switched?

23 MR. YANNELLA: Yes.

24 THE COURT: So wife no. 3 is really wife no. 2?

25 MR. YANNELLA: Correct.

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1 THE COURT: That still doesn't address the years.  
2 There is still a two-year overlap.

3 MR. YANNELLA: Oh, I see, your Honor.

4 THE COURT: That's my point.

5 MR. YANNELLA: I see. I see, between 1 and 2.

6 (Defendant and counsel conferring)

7 MR. YANNELLA: Okay. Your Honor, he doesn't know how  
8 much time elapsed but he is sure he had a divorce certificate  
9 from the end of his first marriage before he entered into his  
10 second marriage. I know that doesn't answer your question  
11 precisely but he simply can't give me the years but he is  
12 telling me he was never married to two women at the same time.  
13 He actually had a child as a result of that first marriage with  
14 that first wife.

15 THE COURT: Well, but that's contrary to paragraph 131  
16 in which he reported to probation that he does not have any  
17 children. Does he have a child?

18 (Defendant and counsel conferring)

19 MR. YANNELLA: Okay. The woman told -- his first wife  
20 said that it was his child but that after he got divorced he  
21 found out it was not his child.

22 THE COURT: All right. He just makes it up as he goes  
23 along.

24 Now, it is not particularly relevant to sentencing but  
25 just looking at this, maybe the government should look at how

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1 many green cards the defendant might be involved with, so many  
2 marriages.

3 MS. FENDER: Your Honor, we understand that Mr. Chin's  
4 relationship history is somewhat convoluted. Frankly, we tried  
5 to get to the bottom of it as well and have been unable to do  
6 so.

7 THE COURT: Well, it wouldn't be too difficult  
8 assuming that he gave the proper names for his wives to find  
9 out how many of them got green cards or subsequently became  
10 citizens because they married him, but that's really not before  
11 the Court at this time.

12 I think before I hear from counsel I will simply  
13 review for all sides and both defendants the guidelines  
14 computation of which it appears there is no dispute.

15 Both of the defendants stand convicted of transporting  
16 others in interstate commerce for the purposes of engaging in  
17 prostitution, a serious crime against the United States. The  
18 base offense level for this crime is 14. The parties agree  
19 that no role adjustments are appropriate, but given that the  
20 investigation revealed that the offense involved between 10 and  
21 12 victims, a grouping analysis was employed leading to a  
22 five-level increase in the total offense level. There were six  
23 units and under the multiple count adjustment that yields a  
24 five-level increase. And so, the combined adjusted offense  
25 level is 19.

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1 Now, each of these defendants pled guilty before me  
2 back in January. At that time I found that their pleas were  
3 knowing and voluntary and, accordingly, I grant each of them a  
4 three-level reduction for acceptance of responsibility, so  
5 their total offense level is 16. Neither of them have any  
6 prior criminal history although each does have an arrest.

7 Accordingly, their Criminal History Category is a I  
8 and under the guideline tables that yields a guideline range  
9 for each of them of 21 to 27 months of imprisonment.

10 So, that guideline calculation applies to each of  
11 them. With that, I am prepared to hear from each party  
12 regarding the 3553(a) factors and their respective submissions  
13 on behalf of their clients.

14 Mr. Cohen, would you like to be heard?

15 MR. COHEN: Yes. Thank you very much.

16 As the Court has already pointed out, this is a very  
17 serious offense and nothing in my submission or in my comments  
18 to the Court today suggest that it is not, or that Ms. He  
19 doesn't recognize the seriousness of the offense for which she  
20 is doing everything she can to accept responsibility for.

21 At the same time, the Court should take into account  
22 Ms. He's background and her characteristics. There is a whole  
23 person here which is distinct from this serious offense. We  
24 have tried to lay it out as best as we can in our sentencing  
25 submission. I note the Court has read it. It is hard to do.



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1 It is hard to capture a person who has had the type of life  
2 that Ms. He has had and there are a few things I want to  
3 highlight for the Court.

4 Ms. He is now 46 years old. She has had a very, very  
5 difficult life. She grew up, as we tried to describe, in a  
6 type of poverty that is hard to comprehend. She lived in a  
7 house sharing her room with her siblings, with ducks, with  
8 chickens, with no running water, with no electricity, on the  
9 outskirts of Chongqing, in China.

10 She was working from the time she was -- as early as  
11 she can remember but as best she can recall 4 or 5 years old,  
12 on the family farm helping to take care of her siblings. And  
13 the theme throughout her life and including in connection with  
14 this offense is that she was trying her best to support others,  
15 specifically eventually her son, her aged parents. She was not  
16 able to get much education because of her work  
17 responsibilities.

18 We described for the Court about how when she was 19  
19 she went to work in a restaurant, she met her first husband who  
20 was an alcoholic who physically abused her for years, abused  
21 their son. Their son has written to the Court and described  
22 that to some extent.

23 Eventually during this period she resorted to  
24 prostitution. There is no -- I mean, it is a tricky area  
25 because here she is both prostitute and someone who engaged

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1 other women to engage in prostitution, but it is a sad  
2 commentary on the state of the world that women in Ms. He's  
3 position would end up doing that because it was the only way  
4 she could find to make enough money to support her family. It  
5 doesn't excuse her engaging other people to do it but it's part  
6 of a very complicated life that the Court has to consider.

7 Her life did not get easier. Her second husband had a  
8 gambling problem, eventually took -- relied on Ms. He to  
9 prostitute herself in order to support him and her son, and  
10 then when she sent all of the money home that she had made, he  
11 stole it all and gambled it away and got into further debt and  
12 that led her to come to the U.S., to continue to try and make  
13 money as a prostitute, which money she sent home to support her  
14 kids and her aging parents.

15 She is now 46 years old. Our expectation is that she  
16 will be removed from the country. She is not here legally.  
17 She will have to go back, regardless of what happens today, to  
18 China, and start again trying to help her parents out as best  
19 as she can. They're both, from their letters, about 70 years  
20 old and quite ill and have been, as her parents and her brother  
21 indicate, relying upon her for financial support. And given  
22 the fact that since she was 5 years old she has tried to  
23 support those around her, I am absolutely confident that that  
24 is what she will do when she gets home, will be to try and  
25 support her parents.

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1           We provided some other information in our submission  
2           that the Court can consider. The Court can note that the  
3           grouping calculation and the increase of guidelines for the  
4           number of people involved is based, in part, on what Ms. He  
5           told the government about her own activities in her attempts to  
6           take responsibility and to make amends for her conduct.

7           So, it would be, I think, a different question,  
8           perhaps -- well, let me put it this way, your Honor. The Court  
9           can note that Ms. He is likely to be removed from this country.  
10          That, in and of itself, is going to be a very difficult  
11          experience.

12          THE COURT: Do you know whether an immigration  
13          detainer has been lodged against her?

14          MR. COHEN: I have no reason to think that one has  
15          been lodged against her as of this moment, but as Ms. He told  
16          the -- you know, the Court can take her very forthright  
17          statements to the probation office. She told the probation  
18          officer that she came here on a tourist visa and worked as a  
19          prostitute when she arrived and did not try and obfuscate that  
20          or hide that in any way. From the start our expectation is  
21          that it will have very severe, adverse consequences for her and  
22          Ms. He is here to take -- she has done everything she can,  
23          given the nature of this offense, to accept her responsibility  
24          and that is part of it and part of it is her being honest with  
25          the government and the probation office about her own

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1 immigration situation.

2 So, given the part of her difficult life, the fact  
3 that she will be removed, the fact that her aging parents rely  
4 on her, the fact that she has worked very hard thinking about  
5 other people, the fact that that work involved prostitution is  
6 difficult -- or at times, obviously not throughout her life.  
7 Again, it doesn't take away that she engaged other people to do  
8 it with understanding what was involved and it is a crime for  
9 which she is standing before the Court, but we urge the Court  
10 to take, in balancing all these different factors that in this  
11 case to recognize that Ms. He does not need to be further  
12 punished. She does not need to be further deterred.

13 The Court can note that Ms. He has been out on release  
14 for over a year, been fully compliant of all of the terms of  
15 her release, has done nothing wrong during this period, and I  
16 am confident will do nothing wrong again. This has been an  
17 absolutely searing experience for someone who has never been in  
18 this position before.

19 So, on balance, I urge the Court not to impose an  
20 incarceratory sentence on Ms. He.

21 Thank you, your Honor.

22 THE COURT: Thank you, Mr. Cohen.

23 Mr. Yannella, do you wish to be heard on behalf of  
24 your client?

25 MR. YANNELLA: Yes, your Honor.

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1           With respect to the paragraph 112 of the PSR, I was  
2 present when my client was interviewed and I know the dates  
3 suggest there is overlaps in the marriage but I do believe  
4 that's a typo. And the reason I say that is that when he was  
5 interviewed by the probation department, they went through the  
6 years and I recall them understanding that none of the  
7 marriages overlapped. We didn't notice how it was written in  
8 the PSR but if he had said it that way or if he had changed his  
9 answers when he was trying to remember the different marriages,  
10 the probation officer would have brought it to his attention  
11 right there in front of him and it never was.

12           Again, we didn't notice it in the PSR. So, I don't  
13 think there is any question, I don't think there is any  
14 possibility that he was married to two women at the same time,  
15 ever.

16           And, Judge, I have discussed the 3553(a) factors  
17 pretty extensively in my sentencing memorandum so I am not  
18 going to do that entirely again but I would point out that my  
19 client is 47 years old. He now appreciates how wrong  
20 prostitution is and how it's viewed in the United States,  
21 although I will say toward the beginning of the case because he  
22 is from a place -- Macao -- where prostitution is legal, he had  
23 a different mindset even though he knew it was illegal here, he  
24 had a different mindset on it earlier in the case.

25           He and Ms. He have been married for three years. They

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1 have a very strong relationship. And I think that reflects --  
2 I don't know what my client thinks about or thought about  
3 previously about prostitution, he didn't view it with as much  
4 social stigma. In fact, one of his former wives was also a  
5 prostitute and she wrote that that in one of the sentencing  
6 letters submitted on his behalf.

7 But, he understands the seriousness of the offense and  
8 he does now have a felony conviction. His life is up-ended  
9 because the person he loves and the person he lives with is  
10 likely to be deported and he may end up having to go with her  
11 in order to continue that relationship. He might have to leave  
12 the United States. It is a wrenching decision for him,  
13 especially because he has parents in their 90s but he does  
14 accept responsibility for his actions and I would request that  
15 if your Honor does not grant what I ask for which is probation,  
16 that there be some variance from the guidelines.

17 Thank you.

18 THE COURT: Thank you, Mr. Yannella.

19 Does the government wish to be heard, Ms. Fender?

20 MS. FENDER: Just very briefly, your Honor.

21 Your Honor, even putting aside the serious allegations  
22 from Victim 1, this case is about very serious conduct. This  
23 argument that is being made that for instance Mr. Chin didn't  
24 understand that prostitution was illegal in this country is  
25 belied by, as your Honor noted before, the earlier arrest that

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1 Mr. Chin has. So, even putting aside the allegations made by  
2 some of the victims in this case it is very serious conduct.

3 These women who are coming over here from China are  
4 seeking a better life and opportunity and, instead, they're  
5 being exploited. Some, like Victim 1, are exploited to the  
6 extent that it fundamentally alters the course of their lives.

7 We have heard about, with all due respect to Ms. He  
8 and Mr. Chin's family but, as your Honor is aware based on the  
9 stenting submission that Victim 1 put in in this case, she  
10 herself as a family. She says: I was a homemaker in China but  
11 I cannot square being a mother or wife with having been forced  
12 to have sex with strangers. I feel like I have to keep secrets  
13 from my family now because I am deeply ashamed of what happened  
14 and do not thinking anyone would understand. I cannot help but  
15 feel like I am no longer a woman or a whole person.

16 Although we are not seeking a special enhancement  
17 based on the allegations, we do think they can be considered by  
18 your Honor.

19 So, for the reasons stated in our submission, we do  
20 think a guideline sentence is appropriate for the defendants.

21 THE COURT: Does the government believe that any order  
22 of restitution is appropriate here?

23 MS. FENDER: Yes, we do, your Honor.

24 We have been discussing that with the victim and her  
25 advocates trying to make sure they understand what is sort of

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1 acceptable given her desire to avoid any future proceedings.  
2 She does not wish to appear before the Court. She very much  
3 wishes to put this behind her.

4 I have spoken with Mr. Yannella and Mr. Cohen. I  
5 think we are reaching a resolution on that issue and so we  
6 would ask your Honor's leave to put in something after today,  
7 but we are seeking an order of restitution.

8 THE COURT: Why can't the parties reach an agreement  
9 now?

10 MS. FENDER: Certainly, your Honor. I am happy to  
11 explain the disagreement.

12 Specifically, as your Honor saw in defense's  
13 sentencing submissions, they object to the characterization of  
14 the victim that this \$2,000 that was given over for  
15 safe-keeping was taken. So, I believe, and I don't want to  
16 speak out of turn -- but that Mr. Chin and Ms. He understand  
17 and accept the idea of restitution for the conduct to which  
18 they expressly pled guilty, namely the approximately \$7,500 in  
19 the money earned by the victim and things of that nature. It  
20 is the \$2,000 that is the issue. The victim still believes  
21 that she is entitled to that. She has alleged and we believe,  
22 for reasons stated in our submission, that she did give the  
23 \$2,000 for safe-keeping. The defendants object and disagree.  
24 And so, that's the outstanding issue.

25 If your Honor feels he does want to address that issue



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1 today, I do have a draft order of restitution that leaves the  
2 amount blank so that we could enter that today, your Honor, if  
3 you would like. And it does set out in the schedule: Filed  
4 under seal. It does have the victim's name and address that I  
5 believe is appropriate for an order of restitution.

6 THE COURT: What are the defendants' views?

7 MR. YANNELLA: May we consult with the prosecutor?

8 THE COURT: Yes.

9 MR. YANNELLA: Thank you.

10 (Counsel conferring)

11 MR. COHEN: Your Honor, let me lay out for you our  
12 position and our discussions with the government in terms of  
13 restitution.

14 As the Court knows, Victim 1 put in a request for  
15 restitution in the amount of \$9,520. The bulk of that  
16 restitution, which is about \$7,000, is based on the money that  
17 was earned by her during that time and which she says that our  
18 clients held on to. There is an additional \$2,000 which she  
19 alleges was taken from her at the beginning. For the reasons  
20 that we have already discussed in connection with the  
21 presentence report, both Ms. He and Mr. Chin deny the  
22 assertions generally made by the victim about how she was  
23 treated by them. At the same time, they recognize that this  
24 was a traumatic experience for her. They do not want to  
25 prolong it or add to it in any way and consented to the

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1 restitution payments for the figure in the \$7,500 range which  
2 encompassed the money that she earned, but even wanting to not  
3 add to this did not -- we couldn't agree to the \$2,000 and  
4 savings which they assert they did not take.

5 So, that's what we represented to the government and  
6 that is where things stand.

7 So, if the Court finds that the \$9,500 is appropriate,  
8 that's going to be fine with Ms. He, but our position is that  
9 the -- I guess the exact amount is going to be \$7,520 is the  
10 appropriate amount with the understanding that the agreement to  
11 pay restitution doesn't change their position on the conduct.

12 Thank you, your Honor.

13 THE COURT: Thank you, Mr. Cohen.

14 Do you endorse Mr. Cohen's view, Mr. Yannella?

15 MR. YANNELLA: Yes.

16 THE COURT: Do the parties waive any evidentiary  
17 hearing with respect to restitution?

18 MR. COHEN: Yes, your Honor.

19 MR. YANNELLA: Yes.

20 THE COURT: The Court has, as part of the submissions  
21 here, a victim impact statement and an affidavit of loss filed  
22 by victim no. 1. Based upon that affidavit of loss, this Court  
23 finds that an award of restitution, jointly and severally in  
24 the amount of \$9,520, is appropriate.

25 MR. COHEN: Thank you, your Honor.

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1 THE COURT: Now, Mr. Cohen, does your client wish to  
2 address the Court before sentence is imposed?

3 MR. COHEN: Yes, your Honor.

4 (Defendant and counsel conferring)

5 DEFENDANT HE: I'm sorry, your Honor. I am extremely  
6 remorseful and I will not do such a thing ever in the future.  
7 I am very remorseful.

8 MR. COHEN: Thank you, your Honor.

9 DEFENDANT CHIN: (In English) Thank you.

10 THE COURT: Mr. Yannella, does your client wish to  
11 address the Court before sentence is imposed?

12 MR. YANNELLA: Yes, your Honor.

13 THE COURT: I will hear from him now.

14 DEFENDANT CHIN: Your Honor, I know that what I did  
15 was wrong but I never wanted to and I never thought I would  
16 hurt anyone. I actually wanted to engage in a legitimate  
17 business and not an illegal business, but because of my health  
18 reasons there are a lot of things that I cannot do, and also my  
19 family needed my support and that's why I started this illegal  
20 business when I did not have any other choices.

21 If I have an opportunity, I will never engage in this  
22 illegal business again. I am sorry.

23 THE COURT: All right.

24 Each of these defendants come before the Court having  
25 been convicted of transporting others in interstate commerce

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1 for the purposes of engaging in prostitution; as I have said, a  
2 very serious crime against the United States. The guideline  
3 range, as I have previously noted, is 21 to 27 months of  
4 imprisonment.

5 Turning first to Ms. He and considering the 3553(a)  
6 factors. First, as the parties' submissions and Mr. Cohen's  
7 remarks today make clear, the defendant was born and spent her  
8 early years in an impoverished rural community in China  
9 suffering the kind of poverty that no one in the United States,  
10 in 2016, is suffering. She, as reported, slept in a room with  
11 her siblings, with chickens and ducks in the room, no plumbing,  
12 no electricity, and as soon as she could walk was put in the  
13 fields to help the family.

14 She ultimately moved to a larger place, a more  
15 urbanized place in China where she began to engage in  
16 prostitution. She wound up coming to the United States for the  
17 express purpose of engaging in prostitution and she came here,  
18 of course, under false pretenses on a visitor's visa.

19 The crime here, committed with her husband, was  
20 heinous. The whole situation really points to a parallel  
21 universe that hits hard to grapple with the fact that this kind  
22 of conduct is going on with people shuffling humanity from  
23 Flushing to various motels in New Jersey, preying on the  
24 Chinese community and preying on young women who have come to  
25 the United States for any number of reasons, I am sure, but

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1 certainly not with the view like Ms. He, of engaging in  
2 prostitution. And victim no. 1's statement really says so much  
3 about this case.

4 So, when the co-defendant, Mr. Chin, said he never  
5 intended to hurt anyone, it just rings hollow given the conduct  
6 of these defendants in this scheme transporting women for sex  
7 over state lines.

8 It is clear, though, that unlike Mr. Chin, Ms. He does  
9 not enjoy the privileges and immunities of citizenship in the  
10 United States and she should be deported from the United States  
11 upon the completion of any term of imprisonment here.

12 It strikes me that the severity of the conduct, the  
13 sustained nature of the conduct, warrant significant punishment  
14 and not just as a matter of general deterrence but also  
15 specific deterrence. This defendant, Ms. He, engaged just as  
16 actively and willingly in this enterprise, in essence, of  
17 transporting young women across state lines for prostitution.

18 And so, in bringing all of those factors together and  
19 looking at her as an individual recognizing the circumstance  
20 that she's in, recognizing the fact that she herself engaged in  
21 prostitution does not excuse her conduct in this case but,  
22 certainly, at least to this Court, is some indication of the  
23 desperateness in which she found herself when she came to the  
24 United States.

25 I am prepared to impose sentence on her at this time

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1 and I think that a non-guideline sentence is appropriate in  
2 Ms. He's case given the collateral consequences that she is  
3 going to suffer.

4 So, Ms. He, I would ask that you stand.

5 Ms. He, this conduct is inexcusable and you have  
6 certainly hurt some people very, very seriously, something that  
7 they'll have to live with for the rest of their lives. For  
8 that you must be punished and a big part of your punishment  
9 will be removing you from the United States because you don't  
10 deserve to be here.

11 It is my judgment that you be sentenced to a term of  
12 seven months of imprisonment. I am going to impose a term of  
13 five years of supervised release but I am going to include, in  
14 my recommendation, that on the face of the judgment, that a  
15 detainer be lodged against you and that you be deported from  
16 the United States.

17 I am going to impose all the standard conditions of  
18 supervised release and the following special conditions: That  
19 you comply with any and all directives of immigration  
20 authorities; that you not have contact with any of the victims  
21 in this case whether physical, visual, written, telephonic, any  
22 electronic, any communication with any of them, nor shall you  
23 cause or encourage anyone else to have any contact with them;  
24 then you are to submit your person, residence, place of  
25 business, vehicle, or any other premises under your control to

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1 a search on the basis that your probation officer has a  
2 reasonable belief that contraband or other evidence of a  
3 violation of the conditions of your release may be found. That  
4 search can be conducted at a reasonable time and in a  
5 reasonable manner and your failure to submit to such a search  
6 may be grounds for revocation.

7 So, you are to inform any other residents of the  
8 premises where you reside that those premises may be subject to  
9 search pursuant to this condition.

10 I am not going to impose any fine but I am going to  
11 impose an order of restitution in the amount of \$9,520, jointly  
12 and severally with your co-defendant, Mr. Chin. I am also  
13 going to impose the mandatory \$100 special assessment and I  
14 will enter an order of restitution in the case.

15 This constitutes the sentence of this Court. I advise  
16 you that to the extent that you have not previously waived your  
17 right to appeal, you have the right to appeal. I advise you  
18 further that if you cannot afford counsel, counsel will be  
19 provided to you free of cost.

20 Mr. Cohen has done an excellent job in representing  
21 you and I am confident that he will advise you further  
22 regarding your appellate rights. You may be seated.

23 Turning to Mr. Chin.

24 Unlike his wife and co-defendant, Mr. Chin, you came  
25 to the United States legally and you partook of all the

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1 benefits that the United States has to offer. You got a free  
2 public education in Forest Hills. We conferred citizenship on  
3 you back more than 20 years ago and you've abused the trust  
4 that your government put in you.

5 We welcomed you. We can't turn back the hands of time  
6 but if we could, we'd keep you out but we're stuck with you  
7 because you're a citizen. The conduct that you engaged in is  
8 despicable. And, as the government noted, it's not the first  
9 time that you've been involved with prostitution. Eight years  
10 ago you were arrested and you certainly knew before that that  
11 it was illegal.

12 These women, Victim no. 1 in particular, will bear the  
13 scars of what you did and your wife did to her for the rest of  
14 her life. I have no doubt about that. No recompense can be  
15 made for that. the restitution is just a drop in the bucket.

16 Looking at you, considering there are -- I'm sad to  
17 say -- very few redeeming qualities about you. You committed a  
18 serious offense, you did it with impunity. You've gambled.  
19 You've got all kinds of problems that have led to the collapse  
20 of businesses that you had because of your gambling. You have  
21 got a long parade of illnesses that you have, quite frankly  
22 none of which are so overwhelming. There is many people your  
23 age who could claim the same kinds of health problems that you  
24 went to great lengths to describe.

25 You have gone from job to job intermittently doing



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1 various things; working as a desk clerk at hotels. I wonder  
2 what opportunities those gave you to meet young women that you  
3 could involve in prostitution.

4 You deserve to be punished.

5 It is my judgment, Mr. Chin, that you be sentenced to  
6 a term of 21 months of imprisonment. I think a guideline  
7 sentence is appropriate for you because, unlike your wife, we  
8 can't get rid of you so you need to be out of circulation. I'm  
9 also going to impose on you a five-year term of supervised  
10 release subject to all of the standard conditions of supervised  
11 release and the following special conditions that you, sir,  
12 submit yourself and your premise, your residence and any  
13 premises under your control, to a search on the basis that your  
14 probation officer has a reasonable belief that contraband or  
15 evidence of a violation of the conditions of your release can  
16 be found, that search which can include your vehicle or place  
17 of business can be conducted at a reasonable time and in a  
18 reasonable manner, and your failure to submit to such a search  
19 may be grounds for revocation. You are to inform any other  
20 residents that the premises where you reside upon your release  
21 may be subject to search pursuant to this condition. And, you  
22 are directed to report to the nearest probation office within  
23 72 hours of your release and to be supervised in the district  
24 of your residence.

25 I am also imposing on you, joint and several with your

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1 co-defendant, an order of restitution in the amount of \$9,520.  
2 And incidentally, this restitution will be payable in monthly  
3 installments of 15 percent of your gross monthly income upon  
4 your release from prison.

5 I am not imposing any fine on you. I am imposing the  
6 mandatory \$100 special assessment.

7 Further, I am imposing the special condition as I did  
8 with Ms. He that you have no contact with the victims in this  
9 case, whether it be physical, visual, written, telephonic,  
10 electronic, smoke signals. No contact with any of these  
11 victims. And you won't send anyone to directly cause or  
12 encourage anyone else to have contact with the victims.  
13 They're all finished with you.

14 This constitutes the sentence of this Court. I advise  
15 you, sir, that to the extent you have not previously waived  
16 your right to appeal, you have the right to appeal.

17 I advise you further if you cannot afford counsel,  
18 counsel will be provided to you free of cost.

19 Mr. Yannella has done the very best he can for you.  
20 You didn't give him much to work with. It has really all been  
21 a waste. Maybe you will do something productive when you are  
22 finally released from prison. If you go back to your old ways  
23 you will be back before me in this courtroom and I will not  
24 hesitate to revoke your supervised release and send you back to  
25 prison.

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1 Do you understand, sir?

2 DEFENDANT CHIN: I understand.

3 THE COURT: All right. You may be seated.

4 Are there any further applications?

5 MS. FENDER: Yes, your Honor. The government would  
6 move to dismiss the underlying counts, Count One and Count  
7 Three of the information, against these defendants.

8 THE COURT: The government's application is granted.  
9 Are there any further applications?

10 MS. FENDER: The only other thing, your Honor, is if  
11 we could have some small measure of time to get you a draft  
12 order of restitution? Given the specifications today with  
13 regard to the monthly installment plan I would like to include  
14 that in the proposed order.

15 THE COURT: I don't know that that needs to be in the  
16 order. It will be in the judgment of conviction as a condition  
17 of supervised release as a special condition so I think you can  
18 just hand up the order.

19 MR. YANNELLA: Judge, may we consult with the  
20 prosecutor?

21 THE COURT: Yes. By all means.

22 (Counsel conferring)

23 MS. FENDER: Your Honor, may I have just one moment?

24 THE COURT: You may.

25 (Pause)

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1 MS. FENDER: Your Honor, may I approach?

2 THE COURT: You may.

3 MS. FENDER: I am handing up a draft order of  
4 restitution. We would ask your Honor that the schedule of  
5 victims on the last page be filed under seal.

6 THE COURT: That application is granted.

7 MS. FENDER: Thank you, your Honor.

8 THE COURT: Any further applications from the  
9 defendants.

10 MR. COHEN: Nothing for Ms. He. Thank you, your  
11 Honor.

12 MR. YANNELLA: No, your Honor.

13 THE COURT: All right. And any requests with respect  
14 to the location for confinement?

15 MR. COHEN: Your Honor, I would request that the Court  
16 recommend a facility as close to New York as possible. My  
17 expectation is that I think that the only women's prison or  
18 low-end security prison is in West Virginia so that's my  
19 expectation in terms of where she would go.

20 Thank you, your Honor.

21 THE COURT: I will include your recommendation on the  
22 face of the judgment.

23 Mr. Yannella?

24 MR. YANNELLA: There is a federal facility in Fort  
25 Dix, New Jersey, and my client respectfully requests that. He

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1 does have family members who will want to visit him.

2 THE COURT: That involves security classifications  
3 which I leave to the Bureau of Prisons but I will include a  
4 recommendation that he be housed at a facility as close to the  
5 New York metropolitan area as possible.

6 MR. YANNELLA: That's fine, your Honor. I know New  
7 Jersey does have multiple classifications but what your Honor  
8 said is fine.

9 THE COURT: All right. And finally, just so that the  
10 Court's interest with respect to the finality of this matter be  
11 resolved, I am directing the government to ensure that a  
12 detainer is lodged by immigration against Ms. He.

13 Anything else?

14 MS. FENDER: Your Honor, may I have just one more  
15 moment? I apologize.

16 THE COURT: Yes.

17 (Counsel conferring)

18 MS. FENDER: Your Honor, with respect to restitution,  
19 I neglected to mention earlier that Mr. Chin had posted some  
20 amount of cash as security for his bond and we would ask, based  
21 on my earlier affirmations in this case, it looks like it is  
22 about \$1,400. We ask that that be applied toward restitution  
23 instead of being released to the defendant or his family.

24 MR. YANNELLA: No objection.

25 THE COURT: All right. After his surrender.

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1 MR. YANNELLA: Yes.

2 THE COURT: All right? I assume that both defendants  
3 are requesting voluntary surrender?

4 MR. COHEN: That's correct, your Honor.

5 As the Court would note, Ms. He has been out for a  
6 year. Probation has recommended voluntary surrender so we  
7 would request a date about six weeks out, your Honor.

8 THE COURT: Is there any objection by the government?

9 MS. FENDER: No objection, your Honor.

10 MR. YANNELLA: We take the same position, your Honor.  
11 My client has also had no issues with retrial services.

12 THE COURT: All right. I am going to direct that each  
13 of the defendants surrender to a facility to be designated by  
14 the Bureau of Prisons by Thursday, August 18th.

15 Anything further?

16 MR. COHEN: Nothing for Ms. He.

17 MR. YANNELLA: No.

18 MS. FENDER: No, your Honor. Thank you.

19 THE COURT: This matter is concluded. Have a good  
20 afternoon.

21 o0o